

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte: VEIJO VANTTINEN and HAITAO TANG

Application 09/864,017



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on October 2, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On April 21, 2006, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that it is not in compliance with the headings as required under MPEP § 1207.02.

An in-depth review of the Examiner's Answer mailed on April 21, 2006, reveals that under the heading Evidence Relied Upon, the prior art relied on was not listed. The MPEP 1207.02(A) states:

A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

In addition, the Examiner's Answer mailed on April 21, 2006, which stated on page 3 that “[t]he statement of the status of claims contained in the brief¹ is correct.” However, the grounds of rejection are listed as follows:

¹ Status of Claims in the Brief, page 2 states “[c]laims 1-34 are pending in the application. Claims 1-34 have been finally rejected. Claims 1-34 are on appeal.”

- (a) Claim 33-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Jokiah.
- (b) Claims 27-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Havinis, Jokiah and Barnes.

It should be noted that the Examiner's Answer fails to discuss the rejection of claims 1-26. Correction if required.

Accordingly, it is ORDERED that the application is return to the Examiner:

- 1) to vacate the Examiner's Answer mailed April 21, 2006 and submit a revised Examiner's Answer in accordance with MPEP § 1207.02; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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